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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,820	12/07/2004	Angelo Benvenuti	6433/PCT	7282
6858 7590 11/16/2007 BREINER & BREINER, L.L.C. P.O. BOX 320160 ALEXANDRIA, VA 22320-0160			EXAMINER DEXTER, CLARK F	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/516,820

Applicant(s)

BENVENUTI ET AL.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 4, 10-16 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 17-20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/7/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group IIIC (claims 1-3, 5-9, 17-20 and 22) in the reply filed on July 3, 2007 is acknowledged. Claims 4, 10-16 and 23 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

3. The information disclosure statement filed on December 7, 2004 has been received and the references listed thereon have been considered.

### ***Drawings***

4. The drawings are objected to because of the following informalities:

In Figure 7, numerals 3, 13, 15, 15A and 15B represent modified versions of the previously disclosed features, and it is suggested to change these numerals to 3', 13', 15', 15A' and 15B' or the like.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Abstract***

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The abstract of the disclosure is objected to because it is too long. Also, "said" is considered to be legal phraseology and thus the use of "said" throughout is improper.

Correction is required. See MPEP § 608.01(b).

### ***Specification***

7. The disclosure is objected to because of the following informalities:

On page 7, line 29, "(11)" is inaccurate and should be changed to --(13)--.

On page 8, line 15, "lower" is improper and should read --less-- or the like, and "(1)" appears to be inaccurate, and it seems that it should be deleted; in line 23, "pulls" appears to be inaccurate, and it seems that it should be changed to --pushes-- or the like.

On page 9, line 27, "produced" is improper and should read --produce-- or the like.

On page 10, line 12, "e" is unclear and should be change to --and-- or the like;

In lines 17-32, the following changes to indicate the modified features are suggested for clarity:

In an alternative configuration, shown in section in Fig.7, the fixed longitudinal element (13') and the flexible member (3'), ~~again indicated with (13) and (3)~~ respectively, are positioned on any chord of the front section of the rolls and at a distance from the vertical line of symmetry of this section so that the pusher (15') in its

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action to feed the rolls to the path (12) between the flexible member (3') and the fixed longitudinal element (13') does not interfere with them.

in this case retention of the rolls by the fixed longitudinal element (13') and the flexible member (3') is not optimum, as these elements are not vertically overlapping. Moreover, the plate (15B') of the pusher 15' must have a reduced diameter in order to pass under the fixed longitudinal element (13') when it has to pass from the upper section to the lower section of the chain path (17). Also, the slit or groove is eliminated from the leg 15A' of the pusher 15'. This makes operation of the device less reliable. It must also be said that in this configuration adaptation to different diameters of the rolls requires adjustment both of the flexible member (3') and of the fixed longitudinal element (13').--.

On page 11, line 12, "the light" should read --light--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. Claims 1-3, 5-9, 17-20 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 12, the recitation "at a distance" is vague and indefinite as to what it refers.

In claim 6, lines 4-5, the recitation "is substantially equal to a diameter of the rolls" renders the claim vague and indefinite because the structure of the device is being

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positively set forth in terms of the workpieces/products, i.e., the rolls, which are not part of the claimed invention.

In claim 22, lines 7-8, the recitation "is lower than a transverse plan dimension of said products" is vague and indefinite since it is not clear as to what is meant by "lower" (less than?), and because the invention is positively defined in terms of the workpieces/products which are not part of the claimed invention.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3, 5-7 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Rufli, pn 811,332.

Rufli discloses a device with every structural limitation of the claimed invention as follows:

- a path (e.g., between 27 and 11) for the products, extending from a product and trimmings entry position and a product delivery position, the trimmings being removed between said entry position and said delivery position (i.e., the device of Rufli is fully capable of performing such a function);

- along said path, a movable flexible member (e.g., 27) to retain and move the products and the trimmings (e.g., the device of Rufli is fully capable of meeting this

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limitation, particularly given the appropriately configured workpiece/product, such as a “soft” workpiece that is able to be deformed and pressed into the channels formed by features 32 to contact member 27) and an opposite longitudinal fixed element (e.g., 11) to retain said trimmings extending along said path parallel to a first branch of said flexible member, at a distance from said first branch of said flexible member to allow the products to advance in contact with said flexible member (e.g., with at least 28) and with said fixed longitudinal element;

- at least one pusher (e.g., 16) movable along a feed trajectory, to feed the series of products with the trimmings to said path wherein the pusher feeds the products and the trimmings between said flexible member and said fixed longitudinal element; and wherein said feed trajectory of the pusher intersects the path of the products between said flexible member and said fixed longitudinal element, overlapping in a final stretch (e.g., in the same manner as the present invention) of the path of the products in contact with said flexible member and said fixed longitudinal element;

[claim 2] wherein said products are rolls of wound web material and said trimmings are head and tail trimmings produced by cutting rolls or logs (this claim is directed to the workpiece/product which is not part of the claimed invention);

[claim 6 (from 2)] wherein the distance between the fixed longitudinal element and the first branch of the flexible member is substantially equal to the a diameter of the rolls (e.g., the device of Rufli is fully capable of meeting this limitation, particularly given the appropriately configured workpiece/product);



[claim 3] wherein said fixed longitudinal element is at a lower height than said flexible member (e.g., see Fig. 2);

[claim 5 (from 3)] wherein said first branch of the flexible member is approximately vertically overlapping said fixed longitudinal element (e.g., see Fig. 2);

[claim 7] wherein said flexible member extends upstream of said fixed longitudinal element, in relation to the a direction of feed of the products (e.g., as viewed in Fig. 2, element 27 extends to the right which is an upstream direction of element 11 in relation to a direction of feed of the workpieces/products, and in particular, element 27 extends upstream of element 11 when element 11 is fixed in the raised position (shown in phantom in Fig. 2));

[claim 22] wherein said fixed longitudinal element and said flexible member are positioned on opposite sides of a vertical median plane of symmetry of the products fed along said path; the distance between said fixed longitudinal element and said flexible member in a plan projection is lower than the a transverse plan dimension of said products (e.g., the device of Rufli is fully capable of meeting this limitation as best understood, particularly given the appropriately configured workpiece/product); and the dimension and form of said pusher are such that during action of said pusher to feed the products to said path between the flexible member and the fixed longitudinal element the pusher does not interfere with said fixed longitudinal element and said flexible member.

***Claim Rejections - 35 USC § 103***

11. Claims 8, 9 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rufli, pn 811,332.

Rufli discloses a device with almost every structural limitation of the claimed invention but lacks:

[claim 8] wherein said flexible member has a feed speed, along said path, greater than a feed speed imparted on the products by said at least one pusher;

[claim 9] wherein the distance between the flexible member and the fixed longitudinal element is adjustable;

[claim 17] wherein said fixed longitudinal element comprises a synthetic material with a low friction coefficient;

[claim 18 (from 17)] wherein said synthetic material is polytetrafluoroethylene (Teflon);

[claim 19] wherein said fixed longitudinal element has a laminar extension, with a rounded surface in contact with the products;

[claim 20 (from 19)] wherein said fixed longitudinal element has a reduced height in proximity to the product and trimmings entry position.

Regarding claim 8, the Examiner takes Official notice that it is old and well known in the art to provide material conveyors of different speeds (or variable speeds) for various well known benefits including adjusting the spacing between work pieces. For example, it is old and well known in the art to decrease the speed of a first conveyor leading to a second, faster conveyor to increase spacing between the work pieces, and

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to increase the speed of the first conveyor relative to the second conveyor to reduce the spacing between work pieces. Therefore, it would have been obvious to one having ordinary skill in the art to provide conveyors (e.g., including a movable flexible member and a pusher) having the claimed relative speeds to gain the well known benefits including those described above.

Regarding claim 9, the Examiner takes Official notice that it is old and well known in the art to provide a workpiece supports and conveyors with variable spacing therebetween for various well known benefits including facilitating the processing of different sized work pieces. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a variable spacing support/conveyor configuration to gain the well known benefits including that described above.

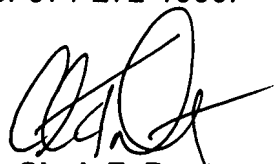
Regarding claims 17-20, the Examiner takes Official notice that such workpiece support configurations are old and well known in the art and provide various well known benefits including ease of manufacture, ease of handling and reduced wear/friction characteristics. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a longitudinal element configuration on the apparatus of Rufli for the well known benefits including those described above.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cfd  
November 13, 2007